

3 CHERRY WAY HOMEOWNERS ASSOCIATION BYLAWS

ARTICLE 1 / GENERAL PROVISIONS

1-1 IDENTITY AND PURPOSE

These are the Bylaws of the 3 Cherry Way Homeowners Association, Inc., a North Carolina nonprofit corporation located in Lincoln County, North Carolina, herein referred to as the Association. Its purpose is to preserve, protect and enhance the value and appearance of the 3 Cherry Way Adult Community. This shall be accomplished by the management and maintenance of the Common Areas, Entrances, Recreational Facilities, Roads, and Association maintenance obligations in the development. The Association shall work with and is subject to all agreements, covenants, and restrictions which have been recorded with the Lincoln County Register of Deeds, and all North Carolina laws which apply to and run with the land in the subdivision.

The principal office of the Association shall be located at 8886 Sweet Cherry Lane, Denver, NC 28037.

1-2 DEFINITIONS

For the purpose of this document, the “**DEFINITIONS**” used in Article 1 of the Declaration of Covenants, Conditions and Restrictions of 3 Cherry Way Homeowners Association, as entered on February 3, 2010, and amended on January 17, 2020, herein referred to as the Declaration, shall apply.

1-3 FISCAL YEAR

The Fiscal Year of the Association shall be the calendar year beginning on the first (1st) day of January and ending on the thirty-first (31st) day of December.

1-4 ASSOCIATION OWNERSHIP

Ownership of all assets, both tangible and intangible, belonging to the Association, shall be vested in the Association.

ARTICLE 2 / MEMBERSHIP AND VOTING RIGHTS

2-1 MEMBERSHIP

Every lot Owner shall be a Member of the Association, including all rights and responsibilities. The lot Owner is the Owner(s) listed on the title of the lot. Membership may not be assigned.

2-2 MEMBERSHIP REGISTRATION

It shall be the duty of each Owner to register and keep current the name(s) of Owner(s), lot number, mailing address, and contact information with the Corresponding Secretary or authorized agent of the Association. Registration updates shall be completed and filed with the board as soon as possible following any changes. An annual board audit of registration information shall be conducted by September 30 March 31, or by such date as the Board of Directors determines. The Association shall use said list(s) to notice all meetings and communications of the Association.

2-3 VOTING MEMBER

Only one representative of the lot Owner(s) of each lot shall be the Voting Member at any one time. Any other Owner(s) of the same lot shall be non-voting Members. Each lot shall

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receive one (1) vote. Multiple Owner(s) of the same lot shall designate the Voting Member during Registration at all General and Special Membership Meetings. The designated Voting Member must be eligible to vote. Any conflict between multiple Owner(s) of the same lot concerning a vote must be resolved between the Owners prior to that vote, or that lot's vote is invalid. In no event shall more than one vote be cast with respect to any lot.

2-4 SUSPENSION OF VOTING RIGHTS

The Association, acting through its Board of Directors, shall have the right to suspend the voting rights of any Member(s) as set forth in Article III Section 3.04 of the Declaration. Any Member(s) whose voting rights have been suspended shall also lose the right to have said signature(s) recognized for the purpose of a proxy or petition.

2-5 VOTING PROXIES AND PROVISION

The Voting Member may only vote in person or by proxy. A Voting Member must be eligible to vote for a proxy to be issued. A proxy assignment shall be in writing and shall contain the signature(s) of the lot Owner(s). Proxies shall be filed with the Corresponding Secretary, or other authorized agent of the Association, at least ten (10) days prior to the meeting at which the proxy vote will apply. A Member named as a proxy must be eligible to vote and may not be named as proxy for more than three (3) other lot(s) Owner(s). All proxies are revocable and may be vacated in writing, or by the death or judicially declared incapacitation of the Member. A duly issued proxy notification shall expire five (5) months after execution.

ARTICLE 3 / ASSOCIATION AND BOARD OF DIRECTORS MEETINGS

3-1 GENERAL MEMBERSHIP MEETINGS

The business and affairs of the Association shall be managed by the Board of Directors.

The Association shall, through the Board of Directors, hold two (2) General Membership Meetings per year, in May and in November. The general membership shall meet at the time and location as approved in Article 3-6 of these Bylaws in May for the purpose of electing a Board of Directors and electing Members of the Architectural Control Committee. They shall meet at the time and location as approved in Article 3-6 of these Bylaws in November for the purpose of annual budget ratification, notice of Annual Assessments, and Bylaw amendment(s) approval, if so noticed, as set forth in Article 11-1 of these Bylaws. The November meeting shall be the Annual Meeting.

The Board of Directors shall notice the May and November meeting time and date not less than thirty (30) nor more than sixty (60) days prior to the meeting. Notice may be delivered by hand, first class mail or by electronic means. The notice of any meeting shall state the time and place of the meeting and the agenda items, including, but not limited to, the general nature of any proposed Amendment to the Bylaws, any budget changes, any proposal to remove a Director or Officer, and quorum and vote requirements. Additionally, they shall meet on other such dates set by the President or the Board of Directors.

3-2 MEMBER MEETING REGISTRATION

Member Meeting Registration shall be required at all General and Special Membership Meetings. Registration shall be conducted by an Association Member or other authorized

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agent, as selected by the Board of Directors, and shall require, at a minimum: date of meeting, attending Member(s) name(s) and address, the designation of the Voting Member, if multiple lot Owner(s) are present, and proxy assignment, if so appointed. Member Meeting Registration logs shall be kept in accordance with any Association Record Retention policy.

3-3 GENERAL MEMBERSHIP MEETING QUORUM AND VOTE

Twenty (20) Voting Members of the Association shall constitute a quorum for the purpose of a General Membership Meeting, except as expressly stated in the Declaration, these Bylaws or in North Carolina law for specific actions by the Board of Directors. In the absence of a quorum, said meeting shall be rescheduled with no reduction of quorum requirement. Each lot shall receive one (1) vote.

3-4 SPECIAL MEETINGS

Special meetings of the general membership may be called by a majority of the Board of Directors, whenever such a meeting seems necessary or advisable. A special meeting may also be called by the Corresponding Secretary at the written request of a minimum of twenty (20) Members, which represent at least ten percent (10%) of lots. In any case, the Corresponding Secretary or authorized agent shall deliver notification to the Membership of the Association not less than (10) days before the date set for such a special meeting. Meeting must occur within thirty (30) days of receipt of written request.

3-5 WAIVER OF NOTICE OF MEMBER MEETINGS

Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member, whether in person or by proxy, shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order.

3-6 BOARD OF DIRECTORS MEETINGS

The Board of Directors shall meet monthly at such time and place as the President, or a majority of the Board decides. The location and time of the regular Board of Directors meetings shall be approved by the Board of Directors at the June meeting and published to the Membership. The approved location and time shall be in effect until June of the following year. If the meeting location becomes unavailable or undesirable during the one-year period, the Board may, by a majority vote, establish an alternate location for the remainder of that period. For non-standard meetings, each director shall be notified either by telephonic message, written notice, or electronic notice at least seventy-two (72) hours before the meeting. Board of Directors meetings, shall be open to all Association Members. The Board shall provide Members an opportunity to address the Board of Directors about issues and/or concerns at each monthly Board meeting but shall retain the right to limit the duration of Member(s) comments.

3-7 BOARD OF DIRECTORS QUORUM AND VOTE

A majority of three (3) Board of Directors shall constitute a Quorum for the transaction of business for any meeting of the Board. Each director shall receive one (1) vote.

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Board members may not assign director or fiduciary duties to a proxy; however, Board members may be represented by proxy for general membership votes.

3-8 ACTION TAKEN WITHOUT A MEETING

An action that is required or permitted to be taken by the Board of Directors under these Bylaws or the Declaration may only be taken without a meeting if the action is approved in writing by all Board Members and a resolution is adopted authorizing the action. The written consents and resolution shall be filed with the minutes of the meeting. Any actions so approved shall have the same effect as though taken at a meeting of the Board of Directors.

3-9 PARLIMENTARY RULES

Meetings of the Association and the Board of Directors shall be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised.

The Board of Directors President, during any Association meeting, shall have the authority to appoint a parliamentarian.

ARTICLE 4 / BOARD OF DIRECTORS COMPOSITION AND SELECTION

4-1 GOVERNING BODY COMPOSITION

The business and affairs of the Association shall be managed by the Board of Directors. The Board of Directors of the Association shall consist of five (5) Members of the Association, all of whom shall be eligible Members of the Association. When a sole lot is owned by multiple Members, only one (1) Member of said lot may be elected to the Board of Directors at any one time.

4-2 FIRST 3 CHERRY WAY HOMEOWNERS ASSOCIATION BOARD OF DIRECTORS

The initial Board of Directors shall begin their term on May 1, 2022 and serve until the Association election of board members per N.C Gen. Stat §47F-3-103(e), not later than the termination of any period of declarant control.

The appointed Board of Directors shall be responsible for the following, by way of explanation, but not limitation:

- a) Adopt the bylaws of the Association;
- b) Fill vacancy(s) on Board of Directors by appointment;
- c) Hold an election for the Architectural Control Committee as per Article 9, Section 9.02 of the 3 CHERRY WAY HOMEOWNERS ASSOCIATION.
- d) Prepare and adopt the 2022 and 2023 budgets;
- e) Contract with a financial management agent, as set forth in Article 7-4 of these Bylaws;
- f) Appoint committees as deemed appropriate to support Association operations;
- g) Open bank accounts on behalf of the Association and designate the signatories required;
- h) Adopt policies and procedures to facilitate Association operation;

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- i) Establish and conduct regularly scheduled monthly Board of Directors meetings

Thereafter, Board of Directors elections shall take place as set forth in Article 4-4 of these Bylaws. Appointed Board of Directors members may apply for election to their expired term.

4-3 APPOINTMENT OF CANDIDATE COMMITTEE

The Board of Directors shall appoint a Candidate Committee as set forth in Article 9-5 of these Bylaws. It shall be the duty of the Candidate Committee to administer an application process for expiring or vacant Board of Director positions. Members of the Association may apply to fill expiring Board of Director terms as set forth in the application process. All candidates shall be given the opportunity to address the membership at the May General Membership Meeting before voting commences. Nominees from the floor shall not be accepted.

4-4 BOARD OF DIRECTORS ELECTION

Not later than the termination of any period of declarant control, lot owners shall elect an executive board. The two (2) members receiving the first and second largest number of votes shall be elected for a two (2) year term. The remaining three (3) members receiving the next highest number of votes shall serve a one (1) year term. Thereafter each Board of Director shall serve for a two (2) year term.

Election of all directors shall be by secret ballot. Each candidate for director shall be placed on the voting ballot, and each Voting Member shall cast one (1) vote per each open position. Cumulative voting is not permitted. The secret ballots will be collected and counted by members of the Candidate Committee, who are not candidates in the election. The candidate(s) receiving the greatest number of votes shall be elected as director(s). In the event of a tie, a coin toss shall be used to determine which of the tying members shall serve on the board. Directors may be elected to consecutive terms.

4-5 BOARD OF DIRECTORS MEMBER RESIGNATION

A Board member may resign at any time by giving written notice to the Board of Directors. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified, the acceptance of such resignation shall not be necessary to make it effective.

4-6 BOARD OF DIRECTORS MEMBER REMOVAL

The Membership may remove any director whenever, in its judgment, the welfare of the Association requires such removal. A petition signed by a minimum of twenty (20) Members, which represent at least ten percent (10%) of lots, must set forth the intention to ask for such removal. It shall be filed with the Corresponding Secretary, or with the President, or with any member of the Board of Directors, and shall be read at the next meeting of the Board of Directors. The general membership must be notified that this issue shall be on the agenda at a General Membership Meeting, at which twenty (20) Voting Members of the Association shall constitute a quorum. A Special General Membership Meeting may be called for this purpose. The Voting Members may, during any such meeting, proceed by a vote of not less than two-thirds (2/3), or sixty-seven percent (67%) of the Voting Members present, in person or by proxy, to execute and put into effect such removal.

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In addition, any director failing to attend three (3) of the previous twelve (12) months' meetings of the Board of Directors or is thirty (30) days or more delinquent in dues or special assessments, may be relieved of duty by a majority vote of the Board of Directors where a quorum is present. Any director subject to such a vote must be notified by the Board of Directors at least ten (10) days prior to the meeting and given an opportunity to be heard at the meeting.

A removed director shall immediately cease to be a director.

4-7 BOARD OF DIRECTORS – VACANCY

In case a vacancy should occur among the Board of Directors, the vacancy may be filled for the balance of the unexpired term. The Board of Directors may choose from the Members on the current list of Members or may ask the community to apply for the open Board position(s). The majority of the Board of Directors will vote a replacement from the list of applicants.

ARTICLE 5 / BOARD OF DIRECTORS POWERS AND DUTIES

5-1 BOARD OF DIRECTORS RESPONSIBILITIES

The Board of Directors shall be responsible for managing the affairs of the Association for the benefit of all Members and shall have all the powers and duties necessary for the administration of affairs, and as provided by law, may do all acts and things as are not provided by the Declaration, Articles, or these Bylaws. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to and be responsible for the following, by way of explanation, but not limitation:

- a) Prepare and adopt an annual budget for revenues, expenditures, and reserves, which identifies the established contribution of each lot Owner(s) to the common expenses, and present said budget for ratification as set forth in Article 8-1 of these Bylaws.
- b) Prepare and adopt or amend use restrictions and rules and regulations governing the use of the Common Areas and other areas identified as the responsibility of the Association;
- c) Institute, defend or intervene in litigation or administrative proceedings on matters affecting the Association;
- d) Establish assessments to defray the common expenses, establish the means and methods of collecting such assessments, and establish the period of the installment payments of the annual assessments;
- e) Collect assessments, deposit the proceeds thereof in a bank depository which it shall approve, and use the proceeds to administer the Association;
- f) Regulate the use, maintenance, repair, replacement, and modification of the common elements;
- g) Make contracts and incur liabilities;
- h) Obtain and carry insurance against casualties and liabilities, as provided in the Declaration, and pay the premium cost thereof;

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- i) Provide for the indemnification of and maintain liability insurance for its officers, directors, employees, and agents, as provided in the Declaration;
- j) Open bank accounts and/or investment accounts on behalf of the Association and designate the signatories required;
- k) Ensure HUD compliance as set forth in the Declaration;
- l) Keep books with detailed accounts of the receipts and expenditures affecting the Association and its administration and specify the maintenance and repair expenses and any other expenses incurred;
- m) Adopt policies and procedures to facilitate Association operation and maintain consistency for Members and the Board of Directors;
- n) Appoint committees as deemed appropriate to support Association operations.

5-2 MANAGEMENT AGENT

The Board of Directors may employ or enter into a contract or agreement with a managing agent or agents for the Association as set forth in Article III Section 3.06 of the Declaration. The Board shall, in writing, delegate to such agent such powers as the Board shall determine, except such as are specifically required by the Declaration, the Articles and these Bylaws.

5-3 BOARD OF DIRECTORS PARTICIPATION

A director may, with majority Board of Directors approval, participate in and vote during regular or special meetings of the Board, including the May and November General Membership Meetings, through any means of communication by which all attendees can simultaneously hear each other during the meeting. At the start of the meeting, it shall be confirmed that the alternate communication method can be heard by all attendees. Only one (1) director may participate by alternate means per meeting. A director who is approved to participate using an alternate communication method shall be recorded as Present at such meeting.

5-4 BOARD OF DIRECTORS EXECUTIVE SESSION

The Board of Directors may adjourn a meeting and reconvene in executive session to discuss privileged and confidential matters as allowed by law, as example of but not exclusive to, Member discipline, third party contracts or issues involving attorney-client privilege. The executive session and its general agenda shall be included in the regular meeting notice and agenda. A vote on such business shall be conducted in open session after executive session has closed, and the vote shall be recorded in the regular meeting minutes. Association Members shall not have a right to detailed executive session meeting minutes.

5-5 BOARD OF DIRECTORS INDEMNIFICATION

A director shall **not** be personally liable to the corporation or any of its Members for monetary damages for a breach of the directors' fiduciary duty except under the following provisions: (1) a breach of the director's duty of loyalty to the Association; (2) acts or omissions not in good faith or that involved intentional misconduct or a known violation of the law; (3) a violation of §55A-8-51(d) of the North Carolina Non-Profit Corporation Act; or (5) an act or omission that is grossly negligent.

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No Director, Officer or Member of the Association shall use the name of the Association for his/her own personal gain.

ARTICLE 6 / OFFICER POSITIONS AND DUTIES

6-1 OFFICER POSITIONS

The Officers shall conduct the affairs of the Association in accordance with the Declaration, Association Bylaws, and appropriate statutes made and provided by the State of North Carolina. The standing Officers of the Association shall consist of a President, Vice President, Treasurer, Recording Secretary and Corresponding / Record Retention Secretary, who shall be elected by the Board of Directors from its membership.

6-2 OFFICER TERM OF OFFICE

The offices of President, Vice President, Treasurer, Recording Secretary, and Corresponding / Record Retention Secretary shall be filled in the order listed above at a special Board of Directors meeting held in conjunction with and immediately following the May General Membership Meeting each calendar year. All Officers shall hold office until the next year Board of Directors elections, or until such time as their successors are elected.

6-3 OFFICER DUTIES

The duties of the Officers are provided by way of explanation, but not limitation, as follows:

6-3(a) PRESIDENT

The President shall be the principle executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors; shall execute the directives of the Board and shall supervise and control the management of the Association in a manner consistent with the authority and responsibility pertaining to the office; shall have the authority to execute documents for the Association and shall see that all orders and resolutions of the Board are implemented; shall be the primary contact for any agent(s) contracted on behalf of the Association, unless expressly stated herein.

The President shall call meetings of the Board of Directors and shall call a Special Meeting of the Board at any written request of not less than two (2) Board members; and shall appoint Standing and Special Committees and shall be an ex-officio member of such committees.

The President shall be the secondary contact liaison with the financial management agent, pursuant to Article 7-4 of these Bylaws.

6-3(b) VICE PRESIDENT

The Vice President, in the absence of the President, shall assume the duties of the President and function as President of the meeting, including the authority to execute documents for the Association; and shall serve as an informed source about all Association governing documents.

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6-3(c) TREASURER

The Treasurer shall be responsible for the supervision of all tangible assets of the Association including funds, securities, and evidence of indebtedness. The Treasurer shall be the first contact liaison with and shall be responsible for the oversight of the duties of any financial management agent, pursuant to Article 7-4 of these Bylaws. In addition, the Treasurer shall prepare and present monthly financial statements to the Board of Directors for approval and provide status of the accounts being managed; shall present the yearly budget at the November General Membership Meeting; shall have the accounts audited at least annually by a competent auditor selected by the Board of Directors with the assistance of the Audit/Investment Ad Hoc Committee and shall have the authority to file all legally required documents on behalf of the Association.

In the absence or incapacity of the Treasurer, the Board of Directors may authorize the Vice President or Recording Secretary to perform such duties of the Treasurer, except as otherwise stated herein.

At the discretion of the Board of Directors, the Treasurer shall give a bond in such sum as the Board deems necessary and the cost of such bond shall be paid from the funds of the Association.

At term expiration, the Treasurer shall promptly deliver to the successor all monies, books, papers, and other property belonging to the Association that may then be in the Treasurer's possession or under the Treasurer's control. In the absence of such successor, the Treasurer shall deliver all monies, books, papers and other property upon the order and direction of the Board of Directors.

6-3(d) RECORDING SECRETARY

The Recording Secretary shall give notice of all Board of Directors meetings and shall attend all Board of Directors and General Membership Meetings, and at such meetings, record true and accurate minutes and Board actions; shall distribute official meeting minutes and documents in accordance with all legal requirements and policies and procedures that the Board may adopt.

In the absence of the Recording Secretary the President of the meeting may appoint a member of the Association as Acting Recording Secretary for a given meeting.

6-3(e) CORRESPONDING / RECORD RETENTION SECRETARY

The Corresponding / Record Retention Secretary shall give notice of all General Membership Meetings of the Association; shall maintain the Membership Registration list, and Assessment Roll, if so assigned; shall draft and deliver correspondence as directed by the President or the Board of Directors; shall report at each Board meeting on current correspondence issued; shall make available a copy of the current Association correspondence for review at the Board of Directors meetings; shall be responsible for the Association website and/or social media account using the Association name and logo, if in use; shall be responsible for maintaining all required Association business information in accordance with any policies and procedures the Board approves; shall ensure the Association meets all legal documentation, retention, filing and Member eligibility requirements.

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6-4 MULTIPLE OFFICES

No director shall simultaneously hold more than one office at one time; however, any Officer may be assigned to the duties of an office temporarily until a replacement is appointed by the Board.

6-5 ASSIGNMENT OF OFFICER DUTIES

One or more duty(s) of any Officer may be assigned to an authorized agent, as determined by the Board of Directors, in accordance with Article III, Section 3.06 of the Declaration and Article 5-2 of these Bylaws. The responsibility of oversight of such assigned duties shall remain with the Officer of the Association unless such Office is vacant. If Office is vacant, responsibility of oversight shall be the President.

ARTICLE 7 / FISCAL MANAGEMENT

7-1 DEPOSITORY

The depository of the Association monies shall be a financial institution(s) as shall be designated by the Board of Directors, in accordance with approved policies and procedures.

7-2 INVESTMENTS

Association funds shall be invested in accounts as approved by the Board of Directors, in accordance with appropriate statutes, made and provided by the State of North Carolina.

The Treasurer, or other authorized agent, shall review the status and performance of all investment accounts annually at the October Board of Directors meeting, and make recommendations thereof. The Board of Directors may vote to continue or amend the investment strategy.

7-3 EXPENSES

All expenditures of the Association shall be approved by the Board of Directors.

For expenditures of an emergency nature, the Treasurer or authorized agent shall obtain written approval pursuant to Article 3-8 of these Bylaws. The nature of the expenditure and the amount shall be presented at the next scheduled Board of Directors meeting for review and recording.

Authorization may be established for a Board of Directors pre-approved list of Association common area expenses, such as water and electric service, to ensure timely payment so as not to incur late fees. Pre-approved common area expenses shall be presented at the next Board of Directors meeting for approval.

7-4 FINANCIAL MANAGEMENT AGENT

The Board of Directors may contract with a financial management agent to provide financial services to the Association as the Board of Directors determines. The duties of the financial management agent may include by explanation, but not limitation:

- a) Collect moneys due to the Association;

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- b) Deposit all monies of the Association in an account(s) approved by the Board of Directors;
- c) Authorize disbursements only as directed by the Board of Directors;
- d) Provide monthly reports deemed necessary, by the Treasurer or Board of Directors, that accurately represent the financial position of the Association;
- e) Keep the books of the Association in accordance with good accounting practices and principles and, upon request, shall submit them, together with all vouchers, receipts, records, and other papers to the Board for examination and approval;
- f) Prepare and file yearly tax reports

The financial management agent shall report to the office of Treasurer of the Association, or President, if the Treasurer is unavailable.

7-5 FIDELITY BONDS

Fidelity bonds shall be maintained by the Association in an amount determined by the Board of Directors covering each Director, Officer, employee, agent, or any other person handling, or responsible for handling funds of the Association.

7-6 FINANCIAL REPORTS

At a minimum, full financial reports shall be prepared quarterly by the Treasurer and reported at the Board of Directors meetings, of which one of these reports shall be considered an Annual Report that is presented to the Membership at its November General Membership Meeting as set forth in Article 3.1 of these Bylaws for the purpose of budget ratification.

7-7 FINANCIAL AUDIT

An annual audit of the accounts of the Association, if so ordered by the Board of Directors, shall be conducted by a certified public accountant or the Audit/Investment Ad Hoc Committee and shall be completed no later the first day of July of that calendar year. A copy of the report shall be made available to each Member if requested, at no cost, not later than seventy-five (75) days after the report is complete.

7-8 BOARD OF DIRECTORS COMPENSATION

All directors shall serve without compensation. The Board of Directors may provide from Association funds for such necessary incidental expenses, as may properly be incurred by such Officers or Directors in the transaction of Association business.

No director may profit from a relationship in connection with their duties. Prior to awarding an Association business contract to any agent, organization, or entity, each Board member must sign a conflict-of-interest statement declaring they have no self-serving or self-promoting affiliation, including professional, personal, familial, or financial, with the agent, organization, or entity, which is to be contracted to conduct business on behalf of the Association.

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ARTICLE 8 / ASSESSMENTS

8-1 ANNUAL BUDGET / ASSESSMENTS AND LIABILITIES

As more fully provided in Article V of the Declaration, lot Owners are obligated to pay to the Association the Annual, Special Individual and Supplemental Annual Assessments, as defined in the Declaration. Assessments are secured by a continuous lien upon the lot against which such assessments are made.

The Annual Assessment amount shall be determined by the annual budget, which shall run with the fiscal year. The annual budget shall be prepared by the Board of Directors and presented to the Membership during the November General Membership Meeting.

At least thirty (30) days prior to the November General Membership Meeting, Members shall receive a notice of the meeting which shall include: a summary of the proposed budget, the Annual Assessment amount, and Assessment payment terms.

The notice must also state that the budget may be ratified without a quorum. The budget shall be ratified unless a majority of Voting Members present at the meeting reject the budget. In the event the budget is rejected, the previous budget shall be continued until such time Voting Members ratify a subsequent budget proposed by the Board of Directors, in accordance with §47F-3-103(c) of the North Carolina Planned Community Act.

8-2 MAXIMUM ANNUAL ASSESSMENTS

The Annual Assessment for each lot may be increased a maximum of 10% by the Board of Directors without a vote of the Membership, except as set forth in Article V Section 5.04(c) of the Declaration.

8-3 SPECIAL ASSESSMENTS AND SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS

The Association may levy a Special Assessment and/or a Special Assessment for Capital Improvement for the purpose(s) set forth in Article V Section 5.05(b) and Section 5.06 of the Declaration.

Written notice of a meeting for the purpose of a Special Assessment or Special Assessment for Capital Improvements shall be sent to Members not less than thirty (30) nor more than sixty (60) days in advance of the meeting. At any such meeting, forty percent (40%), or eighty (80) Voting Members, in person or by proxy, shall constitute a quorum. Such Assessment shall be adopted by two-thirds (2/3), or sixty-seven percent (67%) affirmative vote of those members present at the meeting in person or by proxy.

The due date of any Special Assessment(s) shall be fixed in the resolution authorizing such assessment.

8-4 ASSESSMENT DEFAULT AND ENFORCEMENT

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If any assessment, or installment thereof, remains delinquent for ten (10) days after the due date, the assessment shall be subject to a late charge in accordance with the annually published fee schedule.

If the assessment, or installment thereof, is not paid within thirty (30) days of due date, it shall bear interest thereafter in accordance with the annually published fee schedule.

Owners(s) delinquent more than thirty (30) days shall lose eligibility to vote at Membership Meetings and may lose all the rights and privileges afforded to Member(s) until all assessments have been paid. Lot(s) delinquent in paying assessments may also be subject to water shutoff.

The Association may bring legal action against the Owners(s) personally obligated to pay an assessment or apply a lien on the Owner's lot. The Owner(s) shall be responsible for all costs associated with collecting the delinquent assessments.

The Association Assessment Default and Enforcement policy shall adhere to North Carolina laws and the Declaration.

8-5 ASSESSMENT ROLL AND HUD / RENTAL COMPLIANCE

All assessments shall be set forth upon a roll of the lots. Such roll shall include, for each lot, the name and address of the Owner(s), all assessments levied, the date of such assessment and the amount of all assessments, paid and outstanding. The Association or their agent shall, upon written request, furnish to a lot Owner(s) a certificate setting forth the amount of unpaid assessments currently levied against said lot. The certificate shall be issued within seven (7) business days after receipt and shall be binding upon the Association and all lot Owner(s). A reasonable fee may be assessed for the certificate.

The HUD compliance record, which regulates resales and rentals as set forth in the Declaration, the Federal Housing for Older Persons Act, and North Carolina state laws, must be on file with the Association for each lot. The Association document entitled "Age Verification Form" shall serve as the HUD compliance record.

All lease contracts must be approved by the Board of Directors prior to Owner / Lessee commencement to demonstrate compliance as set forth in Article X, Section 10.07 of the Declaration.

No more than 10% (twenty (20) total) of homes shall be leased or rented at any given time. The Board of Directors will maintain a waiting list for other owners wanting to lease or rent their homes. Existing rental properties will be permitted to remain in the rental program so long as the home is owned by the current owners. When the home changes ownership, it will fall out of the rental program and may reenter based on availability of allowable rentals. Contact the HOA if you plan to lease or rent your townhome prior to signing a lease.

ARTICLE 9 / ASSOCIATION COMMITTEES

9-1 COMMITTEE ESTABLISHMENT

The Board of Directors may appoint committees as deemed appropriate to perform such tasks and serve for such periods as the Board determines. Each committee shall be composed and shall operate in accordance with the terms of the Declaration, these Bylaws, the resolution of

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the Board of Directors designating the committee, or with the policies and procedures adopted by the Board.

9-2 ASSOCIATION STANDING COMMITTEES

Association Standing Committees are required by the Declaration or Association Bylaws. The Association shall maintain four (4) Standing Committees, as follows: Architectural Control Committee, Candidate Committee, Audit / Investment Committee, and Community Center Committee. The Chair of the Association Standing Committees shall report to the Board of Directors upon request. The Board of Directors has the authority to assign additional duties as required to any Standing Committee.

When a sole lot is owned by multiple Members, only one (1) Member of said lot may serve on a Standing Committee or the Board of Directors, at any one time. However, the member(s) not serving on a Standing Committee, or the Board of Directors may serve on any Ad Hoc Committee.

9-3 ARCHITECTURAL CONTROL COMMITTEE

It shall be the duty of the Architectural Control Committee to control modifications and alterations to the design of the community in accordance with Article IX of the Declaration and the Association's Architectural Standard and Guidelines document, as approved by the Board of Directors.

Member request(s) to alter, modify or otherwise enhance the design or appearance of their lot must follow the process defined in the Architectural Standard and Guidelines, and the Landscape Standards and Guidelines. document.

A member of the Board of Directors may not serve on this committee. A member of the Board of Directors will be assigned to oversee the Architectural Control Committee.

The Architectural Control Committee shall consist of three (3) Members, who shall be elected by a majority vote of the Voting Members.

Thereafter, the Architectural Control Committee shall consist of three (3) Members, who shall be elected by a majority vote of the Voting Members in attendance, in person or by proxy, at the May General Membership Meeting. The candidate(s) receiving the greatest number of votes shall be elected. In the event of a tie, a coin toss shall be used to determine which of the tying members shall serve on the committee. Committee Members may be elected to consecutive terms. Committee members shall serve a term of one (1) year.

9-4 ARCHITECTURAL CONTROL COMMITTEE MEMBER REMOVAL

The Membership may remove any member whenever, in its judgment, the welfare of the Association requires such removal. A petition signed by a minimum of twenty (20) Members, which represent at least ten percent (10%) of lots, must set forth the intention to ask for such removal. It shall be filed with the Corresponding Secretary, or with the President, or with any member of the Board of Directors, and shall be read at the next meeting of the Board of Directors. The general membership must be notified that this issue shall be on the agenda at a General Membership Meeting, at which twenty (20) Voting Members of the Association shall constitute a quorum. A Special General Membership Meeting may be called for this purpose.

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The Voting Members may, during any such meeting, proceed by a vote of not less than two-thirds (2/3), or sixty-seven percent (67%) of the Voting Members present, in person or by proxy, to execute and put into effect such removal.

A removed member shall immediately cease to be a committee member.

9-5 CANDIDATE COMMITTEE

The purpose of the Candidate Committee is to facilitate a uniform process by which all Association Members shall use a consistent method to express interest for a position on the Board of Directors, Architectural Control Committee, and other committee(s) as the Board determines.

It shall be the duty of Candidate Committee to administer the application process, in accordance with policies and procedures adopted by the Board of Directors. It shall further be the duty of the Candidate Committee to maintain a list of Members who are so interested, and to provide such list to the Board upon request. Other duties may be assigned as the Board determines.

Candidate applications for Board of Directors and Architectural Review Committee positions shall be submitted no later than the thirty-first (31) day of March each year.

The Candidate Committee shall consist of three (3) Members, who shall be appointed by the Board of Directors. Committee members shall serve a term of (1) year.

9-6 AUDIT / INVESTMENT COMMITTEE

It shall be the duty of the Audit / Investment Committee to supervise the audit of the books of the Association, and to approve the annual budget document and balance sheet statement for presentation to the Members at the November General Membership Meeting. If so ordered, an audit shall be completed no later than the first day of July, as set forth in Article 7-7 of these Bylaws. This committee shall also serve as advisor to the Board of Directors on investment related financial issues, including opening new accounts, recommending portfolio strategies consistent with investment objectives, and recommending decisions on specific investments.

The Audit / Investment Committee shall consist of three (3) members two of which shall be appointed by the Board of Directors. The Treasurer shall serve as the Chair of this committee. No other director may serve on this committee. Committee members shall serve a term of one (1) year.

9-7 COMMUNITY CENTER COMMITTEE

It shall be the duty of the Community Center Committee to manage Community Center rentals, Community Center consumables, and maintain the Community Center calendar of events, in accordance with the policies and procedures adopted by the Board of Directors. Other duties may be assigned as the Board determines. The Community Center Committee shall consist of three (3) Members, who shall be appointed by the Board of Directors. Committee members shall serve a term of one (1) year.

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ARTICLE 10 / ASSOCIATION RECORDS AND BOOKS

In accordance with Article III, Section 3.05 of the Declaration, the Association shall maintain current copies of the Declaration, Bylaws, and other rules concerning the Development as well as its own books, records, meeting minutes and financial statements available for inspection by all Members. Association Members, mortgagees, insurers, and grantors of mortgages of a specific lot may request records, in writing, and be provided such within ten (10) business days of receipt of request. A reasonable fee may be assessed to produce and deliver copies.

10-1 RECORD RETENTION AND STORAGE POLICY

The Record Retention and Storage policies and procedures shall be governed by the Board of Directors.

ARTICLE 11 / AMENDMENTS

These Bylaws may be amended during the annual November General Membership Meeting where a quorum of twenty (20) Voting Members is present, in person or by proxy.

11-1 AMENDMENT PROPOSAL AND ADOPTION

The Board of Directors may propose an amendment(s) to the Bylaws.

Members may also propose an amendment(s) to the Bylaws. Such proposal(s) shall be filed, in writing, with the Recording Secretary or President, and include a petition signed by a minimum of twenty (20) Members, which represent at least ten percent (10%) of lots. Amendment proposal(s) are due no later than August 1 of each year. Proposed Bylaw amendments filed after the August 1st deadline must wait until the following year for consideration.

The Recording Secretary shall submit all proposed amendments to the Board of Directors at the Board meeting. The Board, after due and thorough consideration, may recommend alterations, additions, or omissions to the amendments, and shall vote to recommend "For" or "Against" adoption.

The proposed amendment(s), along with any alterations, additions or deletions recommended by the Board, shall be included in the notice to Members of the Association at least thirty (30) days prior to the date of the November General Membership Meeting, at which twenty (20) Voting Members of the Association shall constitute a quorum for this purpose. The Voting Members may adopt the amendments with or without the alterations, additions, or omissions recommended by the Board. A simple majority of the Voting Members present, in person or by proxy, shall be required for the adoption of any amendment.

Amendment(s) to the Bylaws shall become effective on January 1 of the year following adoption.

ARTICLE 12 / DOCUMENT HIERARCHY

No provision contained herein may supersede, modify, or limit any provision contained in Chapter 47F of the North Carolina Planned Community Act, Chapter 55A of the North Carolina Nonprofit Corporation Act, the Articles of Incorporation, or the Declaration. In the event of a

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conflict, the provisions of the North Carolina Planned Community Act and North Carolina Nonprofit Corporation Act, the Articles of Incorporation, the Declaration, these Bylaws and the Rules and Regulation, in such order, shall prevail.

Effective January 1, 2025

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All amendments identified below in this Attachment have been incorporated into the body of the Bylaws

Attachment A

Bylaw Amendments Effective January 1, 2023

Article 4, Section 4-2, paragraph 1 of the Bylaws, is hereby replaced in its entirety with the following:

The initial board of directors shall begin their term on May 1, 2022 and serve until the Association election of board members per NC Gen. §Stat 47F-3-103(e), Not later than the termination of any period of declarant control.

Article 4, Section 4-2(c) of the Bylaws, is hereby replaced in its entirety with the following:

c) *Hold an election for the Architectural Control Committee as per Article 9, Section 9.02 of the 3 CHERRY WAY HOMEOWNERS ASSOCIATION.*

Article 4, Section 4-4, paragraph 1 of the Bylaws, is hereby replaced in its entirety with the following:

Not later than the termination of any period of declarant control, lot owners shall elect an executive board. The two (2) members receiving the first and second largest number of votes the Board of Director shall be elected for a two (2) year term. The remaining three (3) members receiving the next highest number of votes shall serve a one (1) year term.

Article 9, Section 9.3, paragraph 4 of the Bylaws shall be replaced in its entirety with the following:

The Architectural Control Committee shall consist of three (3) Members, who shall be elected by a majority vote of the Voting Members.

Article 9, Section 9.4, paragraph 3 of the Bylaws shall be removed from the Bylaws.

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All amendments identified below in this Attachment have been incorporated into the body of the Bylaws

Attachment B

Bylaw Amendments Effective January 1, 2024

1-1 IDENTITY AND PURPOSE, paragraph 2 is revised as follows:

The principal office of the Association shall be located at ~~PO Box 2220~~, 8886 Sweet Cherry Lane, Denver, NC 28037.

2-5 VOTING PROXIES AND PROVISION, paragraph 1 is revised as follows:

The Voting Member may only vote in person or by proxy. A Voting Member must be eligible to vote for a proxy to be issued. A proxy assignment shall be in writing and shall contain the signature(s) of the lot Owner(s). Proxies shall be filed with the Corresponding Secretary, or other authorized agent of the Association, at least ten (10) days prior to the meeting at which the proxy vote will apply. A Member named as a proxy must be eligible to vote and may not be named as proxy for more than ~~one (1)~~ three (3) other lot(s) Owner(s). All proxies are revocable and may be vacated in writing, or by the death or judicially declared incapacitation of the Member. A duly issued proxy notification shall expire five (5) months after execution.

4-4 BOARD OF DIRECTORS ELECTION, paragraphs 1, and 2 are revised as follows:

*Not later than the termination of any period of declarant control, lot owners shall elect an executive board. The two (2) members receiving the first and second largest number of votes ~~the Board of Director~~ shall be elected for a two (2) year term. The remaining three (3) members receiving the next highest number of votes shall serve a one (1) year term. **Thereafter each Board of Director shall serve for a two (2) year term.***

Election of all directors shall be by secret ballot. Each candidate for director shall be placed on the voting ballot, and each Voting Member shall cast one (1) vote per each open position. Cumulative voting is not permitted. The secret ballots will be collected and counted by members of the Candidate Committee, who are not candidates in the election. The candidate(s) receiving the greatest number of votes shall be elected as director(s). In the event of a tie, ~~a second vote of the Voting Members shall determine which of the tying candidates shall serve on the Board. If a second round of voting does not resolve the tie,~~ a coin toss

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shall be used **to determine which of the tying members shall serve on the board.** Directors may be elected to consecutive terms.

7-8 BOARD OF DIRECTORS COMPENSATION, paragraph 2 is revised as follows:

No director may profit from a relationship in connection with their duties. Prior to awarding an Association business contract to any agent, organization, or entity, each Board member must sign a conflict-of-interest statement declaring they have no **self-serving or self-promoting** affiliation, including professional, personal, familial, or financial, with the agent, organization, or entity, which is to be contracted to conduct business on behalf of the Association.

9-3 ARCHITECTURAL CONTROL COMMITTEE, paragraph 5 is revised as follows:

Thereafter, the Architectural Control Committee shall consist of three (3) Members, who shall be elected by a majority vote of the Voting Members in attendance, in person or by proxy, at the May General Membership Meeting. The candidate(s) receiving the greatest number of votes shall be elected. In the event of a tie, ~~a second vote of the Voting Members shall determine which of the tying candidates shall serve on the committee. If a second round of voting does not resolve the tie,~~ a coin toss shall be used **to determine which of the tying members shall serve on the committee.** Committee Members may be elected to consecutive terms. Committee members shall serve a term of one (1) year.

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All amendments identified below in this Attachment have been incorporated into the body of the Bylaws

Attachment C

Bylaw Amendments Effective January 1, 2025

4-2 FIRST 3 CHERRY WAY HOMEOWNERS ASSOCIATION BOARD OF DIRECTORS, Paragraph i) is revised as follows:

- i) Establish ~~schedule~~ and conduct ~~regularly scheduled monthly~~ Board of Directors meetings.

4-3 BOARD OF DIRECTORS CANDIDATES, Heading is revised as follows:

4-3 BOARD OF DIRECTORS CANDIDATES ~~COMMITTEE~~

4-7 BOARD OF DIRECTORS – VACANCY, Paragraph 1 is revised as follows:

In case a vacancy should occur among the Board of Directors, the vacancy may be filled for the balance of the unexpired term. ~~It shall require a majority vote of the Board of Directors at a Board meeting to elect a replacement from the current list of eligible Members held by the Candidate Committee. The Board of Directors may choose from the Members on the current list of Members or may ask the community to apply for the open Board position(s). The majority of the Board of Directors will select a replacement from the list of applicants.~~

5-1 BOARD OF DIRECTORS RESPONSIBILITIES, Paragraph j) is revised as follows:

- J) Open bank accounts ~~and/or investment accounts~~ on behalf of the Association and designate the signatories required.

5-3 BOARD OF DIRECTORS PARTICIPATION, Paragraph 1 is revised as follows:

A director may, with majority Board of Directors approval, participate in and vote during regular or special meetings of the Board, ~~including excluding~~ the May and November General Membership Meetings, through any means of communication by which all attendees can simultaneously hear each other during the meeting. ~~A director shall notify the President of such participation at least five (5) days prior to the meeting.~~ At the start of the meeting, it

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shall be confirmed that the alternate communication method can be heard by all attendees. Only one (1) director may participate by alternate means per meeting. A director who is approved to participate using an alternate communication method shall be recorded as Present at such meeting.

6-3 OFFICER DUTIES, Paragraph c) is revised as follows:

6-3(c) TREASURER The Treasurer shall be responsible for the supervision of all tangible assets of the Association including funds, securities, and evidence of indebtedness. The Treasurer shall be the first contact liaison with and shall be responsible for the oversight of the duties of any financial management agent, pursuant to Article 7-4 of these Bylaws. In addition, the Treasurer shall prepare and present monthly financial statements to the Board of Directors for approval and provide status of the accounts being managed; shall present the yearly budget at the November General Membership Meeting; shall have the accounts audited at least annually by a competent auditor selected by the Board of Directors **with the assistance of the Audit/Investment Ad Hoc Committee**; and shall have the authority to file all legally required documents on behalf of the Association.

6-3 OFFICER DUTIES, Paragraph d) is revised as follows:

6-3(d) RECORDING SECRETARY The Recording Secretary shall give notice of all Board of Directors meetings and shall attend all Board of Directors and General Membership Meetings, and at such meetings, record true and accurate minutes and Board actions; shall distribute official meeting minutes and documents in accordance with all legal requirements and policies and procedures that the Board may adopt.

In the absence of the Recording Secretary the President of the meeting **may shall** appoint a member of the **Association Board of Directors** as Acting Recording Secretary **for a given meeting**.

7-7 FINANCIAL AUDIT Paragraph 1 is revised as follows:

An annual audit of the accounts of the Association, if so ordered by the Board of Directors, shall be conducted by a certified public accountant **or the Audit/Investment Ad Hoc Committee** and shall be completed no later **the twenty-eighth (28) day of February each than the first day of July of that** calendar year. A copy of the report shall be made available to each Member if requested, at no cost, not later than seventy-five (75) days after the **close of the fiscal year the report is completed**.

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8-1 ANNUAL BUDGET / ASSESSMENTS AND LIABILITIES Paragraph 3 is revised as follows:

*At least thirty (30) days prior to the November General Membership Meeting, Members shall receive a notice of the meeting which shall include: a summary of the proposed budget, the Annual Assessment amount **and** Assessment payment terms., ~~and the fee schedule and interest terms for delinquent payments.~~*

8-3 SPECIAL ASSESSMENTS AND SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS,

Paragraph 2 is revised as follows:

*Written notice of a meeting for the purpose of a Special Assessment or Special Assessment for Capital Improvements shall be sent to Members not less than thirty (30) nor more than sixty (60) days in advance of the meeting. At any such meeting, forty percent (40%), or eighty (80) Voting Members, in person or by proxy, shall constitute a quorum. Such Assessment shall be adopted by two-thirds (2/3), or sixty-seven percent (67%) affirmative vote **of those Members present at the meeting in person or by proxy.***

8-5 ASSESSMENT ROLL AND HUD / RENTAL COMPLIANCE, Paragraph 3 is a new paragraph as follows:

No more than 10% (twenty (20) total) of homes shall be leased or rented at any time. The Board of Directors will maintain a waiting list for other owners wanting to lease or rent their homes. Existing rental properties will be permitted to remain in the rental program so long as the home is owned by the current owners. When the home changes ownership, it will fall out of the rental program and may reenter based on availability of allowable rentals. Contact the HOA if you plan to lease or rent your townhouse prior to signing a lease.

9-2 ASSOCIATION STANDING COMMITTEES, Paragraph 2 is revised as follows:

*When a sole lot is owned by multiple Members, only one (1) Member of said lot may serve on a Standing Committee or the Board of Directors, at any one time. **However, the member(s) not serving on a Standing Committee, or the Board of Directors may serve on any Ad Hoc Committee.***

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9-3 ARCHITECTURAL CONTROL COMMITTEE, Paragraphs 2&3 are revised as follows:

*Member request(s) to alter, modify or otherwise enhance the design or appearance of their lot must follow the process defined in the Architectural Standard and Guidelines **and the Landscape Standards and Guidelines document.***

*A member of the Board of Directors may not serve on this committee. **A member of the Board of Directors will be assigned to oversee the Architectural Control Committee.***

9-6 AUDIT / INVESTMENT COMMITTEE, Paragraph 1 is revised as follows:

*It shall be the duty of the Audit / Investment Committee to supervise the audit of the books of the Association, and to approve the annual budget document and balance sheet statement for presentation to the Members at the November General Membership Meeting. If so ordered, an audit shall be completed no later ~~the twenty-eighth (28) day of February~~, **than the first day of July** as set forth in Article 7-7 of these Bylaws. This committee shall also serve as advisor to the Board of Directors on investment related financial issues, including opening new accounts, recommending portfolio strategies consistent with investment objectives, and recommending decisions on specific investments.*